

AMENDED IN ASSEMBLY JUNE 17, 2010

AMENDED IN SENATE APRIL 22, 2010

**SENATE BILL**

**No. 1340**

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**Introduced by Senator Kehoe**

February 19, 2010

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An act to amend Section 44272 of the Health and Safety Code, to amend Sections 26100, 26104, 26121, and 26123 of the Public Resources Code, and to amend Sections 5898.12, 5898.14, 5898.20, 5898.21, and 5898.22 of the Streets and Highways Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1340, as amended, Kehoe. Energy: alternative fuels and vehicle technologies.

Existing law establishes the Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Commission (Energy Commission), to provide to specified entities, upon appropriation by the Legislature, grants, loans, loan guarantees, revolving loans, or other appropriate measures, for the development and deployment of innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change goals. Existing law specifies that only certain projects or programs are eligible for funding.

This bill would, additionally, specify projects eligible for funding under the program to include a cost-effective program to provide funding for homeowners who purchase an electric vehicle to offset costs associated with modifying electrical sources to include a residential plug-in electric vehicle charging station.

*Existing law authorizes a public agency and a property owner to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently affixed on real property.*

*Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a Property Assessed Clean Energy (PACE) Reserve program to assist local jurisdictions in financing the installation of distributed generation renewable energy sources or energy or water efficiency improvements meeting specified requirements that are permanently affixed on real property through the use of a voluntary contractual assessment.*

*This bill would expand the use of the voluntary contractual assessment to finance electric vehicle charging infrastructure affixed on real property and would expand the PACE Reserve program to assist local jurisdictions in financing the installation of electric vehicle charging infrastructure.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 44272 of the Health and Safety Code is  
2 amended to read:  
3 44272. (a) The Alternative and Renewable Fuel and Vehicle  
4 Technology Program is hereby created. The program shall be  
5 administered by the commission. The commission shall implement  
6 the program by regulation pursuant to the requirements of Chapter  
7 3.5 (commencing with Section 11340) of Division 3 of Title 2 of  
8 the Government Code. The program shall provide, upon  
9 appropriation by the Legislature, competitive grants, revolving  
10 loans, loan guarantees, loans, or other appropriate funding  
11 measures, to public agencies, vehicle and technology entities,  
12 businesses and projects, public-private partnerships, workforce  
13 training partnerships and collaboratives, fleet owners, consumers,  
14 recreational boaters, and academic institutions to develop and  
15 deploy innovative technologies that transform California’s fuel  
16 and vehicle types to help attain the state’s climate change policies.  
17 The emphasis of this program shall be to develop and deploy  
18 technology and alternative and renewable fuels in the marketplace,  
19 without adopting any one preferred fuel or technology.

1 (b) A project funded by the commission shall be approved at a  
2 noticed public hearing of the commission and shall be consistent  
3 with the priorities established by the investment plan adopted  
4 pursuant to Section 44272.5.

5 (c) The commission shall provide preferences to those projects  
6 that maximize the goals of the Alternative and Renewable Fuel  
7 and Vehicle Technology Program, based on the following criteria,  
8 as applicable:

9 (1) The project's ability to provide a measurable transition from  
10 the nearly exclusive use of petroleum fuels to a diverse portfolio  
11 of viable alternative fuels that meet petroleum reduction and  
12 alternative fuel use goals.

13 (2) The project's consistency with existing and future state  
14 climate change policy and low-carbon fuel standards.

15 (3) The project's ability to reduce criteria air pollutants and air  
16 toxics and reduce or avoid multimedia environmental impacts.

17 (4) The project's ability to decrease, on a life-cycle basis, the  
18 discharge of water pollutants or any other substances known to  
19 damage human health or the environment, in comparison to the  
20 production and use of California Phase 2 Reformulated Gasoline  
21 or diesel fuel produced and sold pursuant to California diesel fuel  
22 regulations set forth in Article 2 (commencing with Section 2280)  
23 of Chapter 5 of Division 3 of Title 13 of the California Code of  
24 Regulations.

25 (5) The project does not adversely impact the sustainability of  
26 the state's natural resources, especially state and federal lands.

27 (6) The project provides nonstate matching funds.

28 (7) The project provides economic benefits for California by  
29 promoting California-based technology firms, jobs, and businesses.

30 (8) The project uses existing or proposed fueling infrastructure  
31 to maximize the outcome of the project.

32 (9) The project's ability to reduce on a life-cycle assessment  
33 greenhouse gas emissions by at least 10 percent, and higher  
34 percentages in the future, from current reformulated gasoline and  
35 diesel fuel standards established by the state board.

36 (10) The project's use of alternative fuel blends of at least 20  
37 percent, and higher blend ratios in the future, with a preference  
38 for projects with higher blends.

1 (11) The project drives new technology advancement for  
2 vehicles, vessels, engines, and other equipment, and promotes the  
3 deployment of that technology in the marketplace.

4 (d) Only the following shall be eligible for funding:

5 (1) Alternative and renewable fuel projects to develop and  
6 improve alternative and renewable low-carbon fuels, including  
7 electricity, ethanol, dimethyl ether, renewable diesel, natural gas,  
8 hydrogen, and biomethane, among others, and their feedstocks  
9 that have high potential for long-term or short-term  
10 commercialization, including projects that lead to sustainable  
11 feedstocks.

12 (2) Demonstration and deployment projects that optimize  
13 alternative and renewable fuels for existing and developing engine  
14 technologies.

15 (3) Projects to produce alternative and renewable low-carbon  
16 fuels in California.

17 (4) Projects to decrease the overall impact of an alternative and  
18 renewable fuel's life cycle carbon footprint and increase  
19 sustainability.

20 (5) Alternative and renewable fuel infrastructure, fueling  
21 stations, and equipment. The preference in paragraph (10) of  
22 subdivision (c) shall not apply to renewable diesel or biodiesel  
23 infrastructure, fueling stations, and equipment used solely for  
24 renewable diesel or biodiesel fuel.

25 (6) Projects to develop and improve light-, medium-, and  
26 heavy-duty vehicle technologies that provide for better fuel  
27 efficiency and lower greenhouse gas emissions, alternative fuel  
28 usage and storage, or emission reductions, including propulsion  
29 systems, advanced internal combustion engines with a 40 percent  
30 or better efficiency level over the current market standard,  
31 light-weight materials, energy storage, control systems and system  
32 integration, physical measurement and metering systems and  
33 software, development of design standards and testing and  
34 certification protocols, battery recycling and reuse, engine and fuel  
35 optimization electronic and electrified components, hybrid  
36 technology, plug-in hybrid technology, battery electric vehicle  
37 technology, fuel cell technology, and conversions of hybrid  
38 technology to plug-in technology through the installation of safety  
39 certified supplemental battery modules.

1 (7) Programs and projects that accelerate the commercialization  
2 of vehicles and alternative and renewable fuels including buy-down  
3 programs through near-market and market-path deployments,  
4 advanced technology warranty or replacement insurance,  
5 development of market niches, supply-chain development, and  
6 research related to the pedestrian safety impacts of vehicle  
7 technologies and alternative and renewable fuels.

8 (8) Programs and projects to retrofit medium- and heavy-duty  
9 on-road and nonroad vehicle fleets with technologies that create  
10 higher fuel efficiencies, including alternative and renewable fuel  
11 vehicles and technologies, idle management technology, and  
12 aerodynamic retrofits that decrease fuel consumption.

13 (9) Infrastructure projects that promote alternative and renewable  
14 fuel infrastructure development connected with existing fleets,  
15 public transit, and existing transportation corridors, including  
16 physical measurement or metering equipment and truck stop  
17 electrification.

18 (10) Workforce training programs related to alternative and  
19 renewable fuel feedstock production and extraction, renewable  
20 fuel production, distribution, transport, and storage,  
21 high-performance and low-emission vehicle technology and high  
22 tower electronics, automotive computer systems, mass transit fleet  
23 conversion, servicing, and maintenance, and other sectors or  
24 occupations related to the purposes of this chapter.

25 (11) Block grants administered by not-for-profit technology  
26 entities for multiple projects, education and program promotion  
27 within California, and development of alternative and renewable  
28 fuel and vehicle technology centers.

29 (12) Life cycle and multimedia analyses, sustainability and  
30 environmental impact evaluations, and market, financial, and  
31 technology assessments performed by a state agency to determine  
32 the impacts of increasing the use of low-carbon transportation fuels  
33 and technologies, and to assist in the preparation of the investment  
34 plan and program implementation.

35 (13) A ~~cost-effective~~ program to provide funding for  
36 homeowners who purchase ~~an~~ a *plug-in* electric vehicle to offset  
37 costs associated with modifying electrical sources to include a  
38 residential plug-in electric vehicle charging station. *In establishing*  
39 *this program, the commission shall consider funding criteria to*  
40 *maximize the public benefit of the program.*

1 (e) The commission may make a single source or sole source  
2 award pursuant to this section for applied research. The same  
3 requirements set forth in Section 25620.5 of the Public Resources  
4 Code shall apply to awards made on a single source basis or a sole  
5 source basis. This subdivision does not authorize the commission  
6 to make a single source or sole source award for a project or  
7 activity other than for applied research.

8 (f) Until January 1, 2012, the commission may contract with  
9 the Treasurer to expend funds through programs implemented by  
10 the Treasurer, if that expenditure is consistent with all of the  
11 requirements of this chapter.

12 *SEC. 2. Section 26100 of the Public Resources Code is*  
13 *amended to read:*

14 26100. (a) The Legislature finds and declares all of the  
15 following:

16 (1) Property Assessed Clean Energy (PACE) financing has been  
17 pioneered by municipalities and counties in California as a way  
18 for home and small business owners to finance voluntary energy  
19 and water efficiency and clean energy improvements.

20 (2) PACE financing was pioneered in the City of Berkeley,  
21 while the City and County of San Francisco, City of San Diego,  
22 City of Palm Desert, Sonoma County, and the California Statewide  
23 Communities Development Authority (CSCDA) have already  
24 initiated or are working to launch additional programs.

25 (3) Seventeen other states, including Colorado and New York,  
26 have also enacted enabling PACE legislation.

27 (4) The public subsidy provided by the PACE financing is  
28 justified by the benefits received in job creation, lower energy  
29 demand, and spurring new clean industries that will grow the  
30 economy.

31 (b) It is the intent of the Legislature to assist local jurisdictions  
32 in financing the installation of distributed generation renewable  
33 energy sources, *electric vehicle charging infrastructure*, or energy  
34 or water efficiency improvements that are permanently fixed to  
35 real property through the use of voluntary contractual assessments.

36 (c) It is not the intent of the Legislature to create any debt,  
37 liability, or obligation on the part of the state in assisting local  
38 jurisdictions pursuant to this division.

39 *SEC. 3. Section 26104 of the Public Resources Code is*  
40 *amended to read:*

1 26104. “Property Assessed Clean Energy bond” or “PACE  
2 bond” means a bond that is secured by a voluntary contractual  
3 assessment on property authorized pursuant to paragraph (2) of  
4 subdivision (a) of Section 5898.20 of the Streets and Highways  
5 Code or by a voluntary contractual assessment or a voluntary  
6 special tax on property to finance the installation of distributed  
7 generation renewable energy sources, *electric vehicle charging*  
8 *infrastructure*, or energy or water efficiency improvements that is  
9 levied pursuant to a chartered city’s constitutional authority under  
10 Section 5 of Article XI of the California Constitution.

11 *SEC. 4. Section 26121 of the Public Resources Code is*  
12 *amended to read:*

13 26121. To qualify for assistance pursuant to this division, the  
14 PACE program shall require all of the following:

15 (a) The interest rate on the PACE bond does not exceed a  
16 percentage as determined by the authority to be appropriate.

17 (b) Minimum legal loan structure and credit underwriting criteria  
18 as determined by the authority are met.

19 (c) Proceeds of the PACE bonds are used to finance qualified  
20 energy and water efficiency, *electric vehicle charging*  
21 *infrastructure*, and clean energy improvements.

22 (d) The improvement financed is for a residential project of  
23 three units or fewer, or a commercial project that costs less than  
24 twenty-five thousand dollars (\$25,000) in total.

25 *SEC. 5. Section 26123 of the Public Resources Code is*  
26 *amended to read:*

27 26123. (a) In evaluating eligibility, the authority shall consider  
28 whether the applicant’s PACE program includes the following  
29 conditions:

30 (1) Loan recipients are legal owners of underlying property.

31 (2) Loan recipients are current on mortgage and property tax  
32 payments.

33 (3) Loan recipients are not in default or in bankruptcy  
34 proceedings.

35 (4) Loans are for less than 10 percent of the value of the  
36 property.

37 (5) The property is within the geographical boundaries of the  
38 PACE program.

39 (6) The program offers financing for energy efficiency  
40 improvements *or electric vehicle charging infrastructure*.

1 (7) Improvements financed by the program follow applicable  
2 standards of energy efficiency retrofit work, including any  
3 guidelines adopted by the State Resources Conservation and  
4 Development Commission.

5 (b) In evaluating an application, the authority shall consider all  
6 of the following factors:

7 (1) The use by the PACE program of best practices, adopted by  
8 the authority, to qualify eligible properties for participation in  
9 underwriting the PACE program.

10 (2) The cost efficiency of the applicant’s PACE program,  
11 including bond issuance.

12 (3) The projected number of jobs created by the PACE program.

13 (4) The applicant’s PACE program requirements for quality  
14 assurance and consumer protection as related to achieving  
15 efficiency and clean energy production.

16 (5) The mechanisms by which savings produced by this program  
17 are passed on to the property owners.

18 (6) Any other factors deemed appropriate by the authority.

19 *SEC. 6. Section 5898.12 of the Streets and Highways Code is*  
20 *amended to read:*

21 5898.12. (a) It is the intent of the Legislature that this chapter  
22 should be used to finance public improvements to lots or parcels  
23 ~~which that~~ are developed and ~~where for which~~ the costs and time  
24 delays involved in creating an assessment district pursuant to other  
25 provisions of this division or any other law would be prohibitively  
26 large relative to the cost of the public improvements to be financed.

27 (b) It is also the intent of the Legislature that this chapter should  
28 be used to finance the installation of distributed generation  
29 renewable energy sources, *electric vehicle charging infrastructure*,  
30 or energy efficiency improvements that are permanently fixed to  
31 residential, commercial, industrial, agricultural, or other real  
32 property.

33 (c) It is also the intent of the Legislature to address chronic  
34 water needs throughout California by permitting voluntary  
35 individual efforts to improve water efficiency. The Legislature  
36 further intends that this chapter should be used to finance the  
37 installation of water efficiency improvements that are permanently  
38 fixed to residential, commercial, industrial, agricultural, or other  
39 real property, including, but not limited to, recycled water

1 connections, synthetic turf, cisterns for stormwater recovery, and  
2 permeable pavement.

3 (d) It is also the intent of the Legislature that a public agency  
4 in the process of establishing an assessment program, to the extent  
5 feasible, use a good faith effort to provide advance notice of the  
6 proposed program to water and electric service providers in the  
7 relevant service area, as set forth in Section 5898.24, to allow the  
8 most efficient coordination and collaboration between the public  
9 agency and water and electric service providers.

10 (e) This chapter shall not be used to finance facilities for parcels  
11 ~~which~~ *that* are undergoing development.

12 (f) This chapter shall not be used to finance the purchase or  
13 installation of appliances that are not permanently fixed to  
14 residential, commercial, industrial, agricultural, or other real  
15 property.

16 (g) Assessments may be levied pursuant to this chapter only  
17 with the free and willing consent of the owner of each lot or parcel  
18 on which an assessment is levied at the time the assessment is  
19 levied.

20 *SEC. 7. Section 5898.14 of the Streets and Highways Code is*  
21 *amended to read:*

22 5898.14. (a) The Legislature finds all of the following:

23 (1) Energy and water conservation efforts, including the  
24 promotion of energy efficiency improvements to residential,  
25 commercial, industrial, agricultural, or other real property are  
26 necessary to address the issue of global climate change.

27 (2) *Electric vehicle charging infrastructure is a necessary*  
28 *component to transitioning to increase electric vehicle usage.*  
29 *Electric vehicles and their electric charging infrastructure also*  
30 *address the issue of global climate change.*

31 ~~(2)~~

32 (3) The upfront cost of making residential, commercial,  
33 industrial, agricultural, or other real property more energy and  
34 water efficient prevents many property owners from making those  
35 improvements. To make those improvements more affordable and  
36 to promote the installation of those improvements, it is necessary  
37 to authorize an alternative procedure for authorizing assessments  
38 to finance the cost of energy and water efficiency improvements.

39 (b) The Legislature declares that a public purpose will be served  
40 by a voluntary contractual assessment program that provides the

1 legislative body of any public agency with the authority to finance  
2 the installation of distributed generation renewable energy sources,  
3 *electric vehicle charging infrastructure*, and energy or water  
4 efficiency improvements that are permanently fixed to residential,  
5 commercial, industrial, agricultural, or other real property.

6 *SEC. 8. Section 5898.20 of the Streets and Highways Code is*  
7 *amended to read:*

8 5898.20. (a) (1) The legislative body of any public agency  
9 may determine that it would be convenient and advantageous to  
10 designate an area within the public agency, which may encompass  
11 the entire public agency or a lesser portion, within which authorized  
12 public agency officials and property owners may enter into  
13 voluntary contractual assessments for public improvements and  
14 to make financing arrangements pursuant to this chapter.

15 (2) The legislative body of any public agency may also  
16 determine that it would be convenient, advantageous, and in the  
17 public interest to designate an area within the public agency, which  
18 may encompass the entire public agency or a lesser portion, within  
19 which authorized public agency officials and property owners may  
20 enter into voluntary contractual assessments to finance the  
21 installation of distributed generation renewable energy sources,  
22 *electric vehicle charging infrastructure*, or energy or water  
23 efficiency improvements that are permanently fixed to real property  
24 pursuant to this chapter.

25 (b) The legislative body shall make these determinations by  
26 adopting a resolution indicating its intention to do so. The  
27 resolution of intention shall include a statement that the public  
28 agency proposes to make voluntary contractual assessment  
29 financing available to property owners, shall identify the kinds of  
30 public works, distributed generation renewable energy sources,  
31 *electric vehicle charging infrastructure*, or energy or water  
32 efficiency improvements that may be financed, shall describe the  
33 boundaries of the area within which voluntary contractual  
34 assessments may be entered into, and shall briefly describe the  
35 proposed arrangements for financing the program, including a  
36 brief description of criteria for determining the creditworthiness  
37 of a property owner. The resolution of intention shall state that it  
38 is in the public interest to finance the installation of distributed  
39 generation renewable energy sources, *electric vehicle charging*  
40 *infrastructure*, or energy or water efficiency improvements, or

1 ~~both~~ any combination of these sources, infrastructure, and  
2 improvements, pursuant to paragraph (2) of subdivision (a), if  
3 applicable. The resolution shall state that a public hearing should  
4 be held at which interested persons may object to or inquire about  
5 the proposed program or any of its particulars, and shall state the  
6 time and place of the hearing. The resolution shall direct an  
7 appropriate public agency official to prepare a report pursuant to  
8 Section 5898.22 and to enter into consultations with the county  
9 auditor's office or county controller's office in order to reach  
10 agreement on what additional fees, if any, will be charged to the  
11 city or county for incorporating the proposed voluntary contractual  
12 assessments into the assessments of the general taxes of the city  
13 or county on real property.

14 (c) As used in this chapter, each of the following terms shall  
15 have the following meaning:

16 (1) "Efficiency improvements" means permanent improvements  
17 fixed to residential, commercial, industrial, agricultural, or other  
18 real property.

19 (2) "Legislative body" means the governing body of a public  
20 agency.

21 (3) (A) For the purpose of financing the installation of water  
22 efficiency improvements, "public agency" means a city, county,  
23 city and county, municipal utility district, community services  
24 district, sanitary district, sanitation district, or water district, as  
25 defined in Section 20200 of the Water Code. The definition of  
26 "city" in Section 5005 shall not apply to this subparagraph.

27 (B) For the purpose of financing the installation of distributed  
28 generation renewable energy sources or energy efficiency  
29 improvements, "public agency" means a county, city, city and  
30 county, or a municipal utility district, an irrigation district, or public  
31 utility district that owns and operates an electric distribution  
32 system. The definition of "city" in Section 5005 shall not apply to  
33 this subparagraph.

34 (C) For the purpose of financing the public improvements,  
35 "public agency" means a city as defined in Section 5005.

36 *SEC. 9. Section 5898.21 of the Streets and Highways Code is*  
37 *amended to read:*

38 5898.21. Notwithstanding any other provision of this chapter,  
39 upon the written consent of an authorized public agency official,  
40 the proposed arrangements for financing the program pertaining

1 to the installation of distributed generation renewable energy  
2 sources, *electric vehicle charging infrastructure*, or energy or water  
3 efficiency improvements that are permanently fixed to real property  
4 may authorize the property owner to purchase directly the related  
5 equipment and materials for the installation of distributed  
6 generation renewable energy sources, *electric vehicle charging*  
7 *infrastructure*, or energy or water efficiency improvements and to  
8 contract directly for the installation of distributed generation  
9 renewable energy sources, *electric vehicle charging infrastructure*,  
10 or energy or water efficiency improvements that are permanently  
11 fixed to the property owner's residential, commercial, industrial,  
12 agricultural, or other real property.

13 *SEC. 10. Section 5898.22 of the Streets and Highways Code*  
14 *is amended to read:*

15 5898.22. The report shall contain all of the following:

16 (a) A map showing the boundaries of the territory within which  
17 voluntary contractual assessments are proposed to be offered.

18 (b) A draft contract specifying the terms and conditions that  
19 would be agreed to by a property owner within the voluntary  
20 contractual assessment area and the public agency.

21 (c) A statement of public agency policies concerning voluntary  
22 contractual assessments including all of the following:

23 (1) Identification of types of facilities, distributed generation  
24 renewable energy sources, *electric vehicle charging infrastructure*,  
25 or energy or water efficiency improvements that may be financed  
26 through the use of contractual assessments.

27 (2) Identification of a public agency official authorized to enter  
28 into voluntary contractual assessments on behalf of the public  
29 agency.

30 (3) A maximum aggregate dollar amount of voluntary  
31 contractual assessments.

32 (4) A method for setting requests from property owners for  
33 financing through voluntary contractual assessments in priority  
34 order in the event that requests appear likely to exceed the  
35 authorization amount.

36 (d) A plan for raising a capital amount required to pay for work  
37 performed pursuant to voluntary contractual assessments. The plan  
38 may include amounts to be advanced by the public agency through  
39 funds available to it from any source. The plan may include the  
40 sale of a bond or bonds or other financing relationship pursuant

1 to Section 5898.28. The plan shall include a statement of or method  
2 for determining the interest rate and time period during which  
3 contracting property owners would pay any assessment. The plan  
4 shall provide for any reserve fund or funds. The plan shall provide  
5 for the apportionment of all or any portion of the costs incidental  
6 to financing, administration, and collection of the voluntary  
7 contractual assessment program among the consenting property  
8 owners and the public agency.

9 (e) A report on the results of the consultations with the county  
10 auditor's office or county controller's office concerning the  
11 additional fees, if any, that will be charged to the city or county  
12 for incorporating the proposed voluntary contractual assessments  
13 into the assessments of the general taxes of the city or county on  
14 real property, and a plan for financing the payment of those fees.

O